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7 Attorneys for Petitioner
United States of America

8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,)
11)

12 Petitioner,)

13 v.)

14 DAVID REYES, JR.,)

15 Respondent.)

Civil No. '08 CV 0963 IEG CAB

DECLARATION OF REVENUE OFFICER
S. SILVERMAN

16 I, S. Silverman, a Revenue Officer herein, declare:

17 1. At all times mentioned herein, I was a duly commissioned
18 Revenue Officer employed in the California Area, Long Beach
19 Territory 1, Group 15, of the Small Business/Self-Employed Division
20 of the Internal Revenue Service ("IRS") with a post of duty at San
21 Diego, California.

22 2. In my capacity as a Revenue Officer, I am conducting an
23 investigation of David Reyes, Jr. ("Respondent"), to obtain records
24 to determine his income tax liability for the tax years 1995, 1996,
25 1998, and 2005.

26 3. In furtherance of the investigation and in accordance with
27 26 U.S.C. § 7602, on June 27, 2007, I issued an administrative
28 summons, IRS Form 2039, to the Respondent, regarding collection of his

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SOUTHERN DISTRICT OF CALIFORNIA

BY CNH DEPUTY

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1 assessed income tax liability for the tax years 1999 to 2005, and
2 calling him to appear before the IRS to give testimony and to produce
3 for examination the documents and records described in the summons.
4 This summons is to determine Respondent's ability to pay. A copy of
5 the summons is attached to this Declaration as Exhibit A. As detailed
6 in this affidavit, Respondent substantially complied with this summons
7 and I am not seeking enforcement of it.

8 4. However, on the same day, June 27, 2007, I also issued an
9 administrative summons, IRS Form 6638, to the Respondent, regarding
10 income tax return information for the unfiled tax years of 1995, 1996,
11 1998, and 2005. This summons seeks Respondent's income tax records
12 to allow IRS to prepare Respondent's income tax returns and determine
13 his income tax liability for those years. A copy of the summons is
14 attached to this Declaration as Exhibit B. This is the summons that
15 Respondent has not complied with and the one I seek to enforce with
16 an Order to Show Cause from this Court.

17 4. On June 29, 2007, in accordance with 26 U.S.C. § 7603, I
18 served an attested duplicate original copy of both IRS summonses on
19 Respondent, by handing them to the Respondent. A copy of the
20 Certificate of Service of Summons for both are attached to this
21 Declaration as Exhibit C.

22 5. The summonses called for the Respondent to appear before me
23 on July 17, 2007. On July 17, 2007, Respondent failed to appear.
24 However, on this date, I received a telephone call from Steven Mopsick
25 who said that he was Respondent's attorney and that he was in the
26 process of gathering the necessary documents to prepare the tax

1 returns and requested additional time till July 20, 2007, to which I
2 agreed.

3 6. On July 20, 2007, neither Respondent nor his attorney Steven
4 Mopsick appeared before or contacted me. On July 25, 2007, I received
5 some documents in partial compliance with the summonses from Mr.
6 Mopsick via facsimile. The documents I received were: a draft copy
7 of a profit-loss statement for Reyes' Consulting, one of Respondent's
8 businesses; business bank statements for Julie Williams and Reyes
9 Consulting; and pay stubs for the Respondent. However, this was
10 insufficient information and not in full compliance with the
11 summonses.

12 7. On October 12, 2007, I met with the Respondent at my office
13 who appeared in response to a "last chance" letter from the IRS
14 Counsel's Office. From August through November 2007, I levied his
15 business, Estate Preservation, and Respondent made payments during
16 this time period. During our October 12, 2007, meeting, Respondent
17 said he needed an extension and provided a letter from "Powell and
18 Associates" which said they were preparing Respondent's tax returns.
19 He also had a draft copy of his 2005 tax return which he refused to
20 turn over. I still needed his personal bank statements, and expense
21 verification for housing. By the end of October, Respondent did
22 comply with the financial statement request (IRS Form 2039).

23 9. However, Respondent still needed to comply with providing
24 all his income tax return information (IRS Form 6638). I told him if
25 the summons was not complied with in two weeks, I would refer his case
26 for enforcement.

1 10. On October 16, 2007, I spoke to Mr. Mopsick and granted an
2 extension until October 31, 2007, for Respondent to provide the
3 balance of the financial information and I granted until November 29,
4 2007, to have all the income tax information submitted.

5 11. Shortly thereafter, due to the San Diego wildfires, all
6 summons enforcement by the IRS was placed on hold until January 2008.
7 On December 6, 2007, I spoke to Mr. Mopsick, and gave him until
8 January 2, 2008, to file all the returns and provide updated
9 information. On January 7, 2008, I spoke to Mr. Mopsick, who said due
10 to Respondent's inability to pay him, he was only acting as
11 Respondent's power of attorney.

12 12. On February 11, 2008, I spoke to Respondent's live-in
13 girlfriend or fiancée, Julie Williams, who said that her business,
14 Estate Preservation, was no longer operating and that Respondent had
15 his own business, Reyes Consulting. I have had no further contact
16 with Respondent or anyone acting on behalf of Respondent.

17 13. The testimony, books, papers, records, and other data sought
18 by the summons are not in the possession of the Internal Revenue
19 Service with the exception of the bank statements called for in the
20 summons. The bank statements were obtained from third-party record
21 keepers.

22 14. All administrative steps required by the Internal Revenue
23 Code for the issuance of the summons have been taken.

24 15. It is necessary to obtain the testimony and to examine the
25 books, papers, records, and other data sought by the Collection
26 Summons, Exhibit A, in order to determine the collectibility of the
27 Respondent's income tax liabilities for the tax years 1999 to 2004.

I declare under the penalty of perjury that the foregoing is true and correct.

S. Silverman
S. SILVERMAN
Revenue Officer
Internal Revenue Service



Summons

In the matter of David Reyes Jr, 13500 Ginger Glen Road, San Diego, CA 92130

Internal Revenue Service (Division): Small Business/Self Employed

Industry/Area (name or number): Small Business/Self Employed - California Area

Periods: Form 1040, U.S. Individual Income Tax Return for the calendar years ending December 31, 1999, December 31, 2000, December 31, 2001, December 31, 2002, December 31, 2003, December 31, 2004

The Commissioner of Internal Revenue

To: David Reyes Jr

At: 13500 Ginger Glen Road San Diego, Ca 92130

You are hereby summoned and required to appear before S. Silverman, an officer of the Internal Revenue Service, and/or his or her designee, to give testimony and to bring with you and to produce for examination the following books, records, papers, and other data relating to the tax liability or the collection of the tax liability or for the purpose of inquiring into any offense connected with the administration or enforcement of the internal revenue laws concerning the person identified above for the periods shown.

All documents in your possession or control reflecting the above named taxpayer, regarding income and expenses, including bank statements for the period beginning September 1, 2006 and ending February 8, 2007 and for the period beginning May 12, 2007 and ending June 12, 2007, pay stubs for all income sources for the period beginning January 1, 2007 and ending June 29, 2007, all businesses in which you have an ownership interest including Reyes Consulting Inc. and Estate Preservation Solutions Inc including profit and loss statement for the period ending December 31, 2006 and for the period beginning January 1, 2007 and ending May 31, 2007, Employer Identification Number, Articles of Incorporation, and verification of expenses for housing, child care, transportation, other secured debt as listed on Form 433-A dated 5-15-2007.

Attestation

I hereby certify that I have examined and compared this copy of the summons with the original and that it is a true and correct copy of the original.

S. Silverman
Signature of IRS Official Serving the Summons

Revenue Officer, 33-07950
Title

Business address and telephone number of IRS officer before whom you are to appear:

880 Front Street Room 3293, San Diego, Ca 92101 619-615-9538

Place and time for appearance at: 880 Front Street Room 3293, San Diego, Ca 92101

on the 17th day of July, 2007 at 9:00 o'clock A m.

Issued under authority of the Internal Revenue Code this 20th day of June, 2007

S. Silverman
Signature of Issuing Officer

Revenue Officer
Title

Signature of Approving Officer (if applicable)

Title

Part A -- to be given to person summoned



IRS

Department of the Treasury

Internal Revenue Service

www.irs.gov

Form 2039 (Rev. 10-2006)

Catalog Number 21405J



Summons

Income Tax Return

In the matter of David Reyes Jr 13500 Ginger Glen Road San Diego, Ca 92130
 Internal Revenue Service (Identify Division) Small Business/Self Employed
 Industry/Area (Identify by number or name) Small Business/Self Employed - California Area
 Periods: Form 1040, U.S. Individual Income Tax Return for the years ending December 31, 1995, December 31, 1996, December 31, 1998, December 31, 2005

The Commissioner of Internal Revenue

To: David Reyes Jr
 At: 13500 Ginger Glen Road San Diego, Ca 92130

You are hereby summoned and required to appear before S. Silverman, an Internal Revenue Service (IRS) officer, and/or his or her designee, to give testimony and to bring for examination the following information related to the tax liability of the person identified above for the periods shown:

All documents and records you possess or control about income you received for the years: Form 1040, U.S. Individual Income Tax Return for the years ending December 31, 1995, December 31, 1996, December 31, 1998, December 31, 2005

These records and documents include, but are not limited to: Forms W-2 (Wage and Tax Statement), Forms 1099 for interest and dividend income, employee earnings statements, and records of deposit with banks or other financial institutions.

Also include all other books, records, documents and receipts for income from, but not limited to, the following sources: wages, salaries, tips, fees, commissions, interest, rents, royalties, alimony, state or local tax refunds, annuities, life insurance policies, endowment contracts, pensions, estates, trusts, discharge of indebtedness, distributive shares of partnership income, business income, gains from dealings in property, and any other compensation for services (including receipt of property other than money). Include all documents and records about any income you assigned to any other Person or entity.

IRS will use this information to prepare a federal income tax return for the following year(s) when you didn't file a return: 1995, 1996, 1998, 2005

We have attached a blank return to guide you in producing the necessary documents and records.

Do not write in this space

Attestation

I hereby certify that I have examined and compared this copy of the summons with the original and that it is a true and correct copy of the original.

S. Silverman
 Signature of IRS Official Serving the Summons

Revenue Officer, 33-07950
 Title

Business address and telephone number of IRS officer before whom you are to appear:

880 Front Street Room 3293, San Diego, Ca 92101 619-615-9538

Place and time for appearance: At 880 Front Street Room 3293, San Diego, Ca 92101

on the 17th day of July, 2007 at 9:00 o'clock A m.

Issued under authority of the Internal Revenue Code this 28th day of July, 2007



Department of the Treasury
 Internal Revenue Service

www.irs.gov

Form 6638 (Rev. 10-2006)
 Catalog Number 61828W

S. Silverman
 Signature of Issuing Officer

Revenue Officer
 Title

Signature of Approving Officer (if applicable)

Title

Part A -- to be given to person summoned